



JAMES A. HIRSHFIELD, JR.
President

3633 136th Place SE
Suite 107
Bellevue, WA 98006-1451
Telephone 206.747.4600

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

September 23, 1997

Office of the Secretary
Federal Communications Commission
1919 "M" Street, Northwest
Washington, DC 20554

Re: Comments of Summit Communications, Inc., concerning the Notice of Proposed Rulemaking, CC Docket 97-151 released August 12, 1997.
Implementation of Section 703(e) of the Telecommunications Act of 1996: Pole Attachments.

Enclosed are an original and nine copies of our comments regarding the Notice of Proposed Rulemaking described above. We hope that the views of this small cable television operator will be useful to the commission in formulating final rules regarding pole access.

If you should have any questions about the enclosed, please do not hesitate to call.

Sincerely,

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

In the Matter of

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Implementation of Section 703(e)
of the Telecommunications Act
of 1996.

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Pole Attachments

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CC Docket no. 97-151

To: The Commission

COMMENTS OF SUMMIT COMMUNICATIONS, INC., CONCERNING THE
NOTICE OF PROPOSED RULEMAKING RELEASED AUGUST 12, 1997

Date: September 23, 1997

James A. Hirshfield
President

Summit Communications, Inc.
3633 136th Place Southeast, Suite 107
Bellevue, Washington 98006
(425) 747-4600

Introduction

Summit Communications, Inc. is a Small Cable Company serving some 40,000 customers in 31 cable TV systems in Washington, Oregon and Idaho. Summit attaches to 28,000 poles owned by 26 different phone and power utilities, public and private.

Monopoly

Of vital importance in this proposed rule making is understanding and agreeing to the nature of the monopoly being addressed in these proposed regulations. It is clear that this monopoly is the pole line itself. Municipalities, with few exceptions, will not allow additional pole lines to be erected on their rights-of-way. These pole lines have existed, for the most part, for more than half a century. The right to construct and own them was obtained in another era, when problems facing the country were seen very differently.

The owner of a pole line in the 1990's enjoys both a right and an obligation. It has the right to use its pole line to make a reasonable profit. It has the obligation to use its pole line as a public good, serving the needs of the community in which its pole line is located. Within the context of this "public good", the owner's use of its poles for its own purposes may have no more value to a community than the use of the pole line by non-owners. For instance, is power service more important than telephone service? Is one telephone service more important than another telephone service? As a further "for instance", should the historical trend of power costs be reduced by shifting monies from phone to power providers through the pole rate mechanism? Or vice versa? Or by "fleecing" new entrants (which has the collateral benefit of abating competition)?

It should be the position of the Commission that ownership of a pole line constitutes a public obligation, that the owner be allowed a reasonable - regulated - rate of return on its pole line assets, and that in furtherance of the goal of promoting competition, subsequent pole line users should pay based on their physical use of the pole line.

Specific Comments

Section 18. The complete cost of the physical attachments of an attaching entity are normally paid to the pole line owner as a condition of attachment. This addresses factors such as weight, wind load, and safety space. Having been fully recovered, it would be inappropriate to allow for their recovery again through the pole rate.

Sections 23 - 26. Attachments. Any physical attachment to a pole/pole line should be counted, regardless of who makes the attachment. Additional users of facilities already attached should not be counted, as this amounts to fees based not on physical use of the pole, but on content carried in the facilities. The physical attachments of the pole owner should also be counted in determining the number of users. Content is rapidly becoming digital. In the near future, all communications content will be zero's and one's, and it will be impractical to charge based on the information communicated by these digits.

Similarly, charging by the number of fiber strands or number of physical cables on a single attachment presents an administrative exercise of monumental proportions and little utility.

Proposals to charge for pole use based on number of fiber strands or expected content distributed through the facility are anti-competitive, would appear to raise First Amendment issues, and ignore the obligation of the pole line owner to operate his monopoly for the common good.

Section 26/27. Presumptive average number of attachers. Critical to the calculation of pole attachment rates is that each utility deliver, together with its proposed pole rate, a calculation showing the cost and allowed rate of return for each user of poles, including itself, such that the total allowable recovery of costs can be tied back to its allocation of annual carrying costs and, ultimately, its financial statement. Summit has experienced incidents where a utility talks persuasively about its needs to recover costs but, on further inspection, is shown to recover them several times over when all users of its pole line are accounted for.

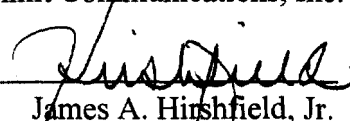
Publicly Owned Poles

Summit rents its 15,000 privately owned poles at an average rate of \$4.58, and its 13,000 publicly owned poles at an average rate of \$9.35. It seems clear that public bodies who own poles are failing in their stewardship over the pole line public good, apparently covering their costs two times or more. Recognizing the pole line as a right to be operated for the public good, regulating its use on that basis, and requiring full disclosure of all costs and recoveries on a utility-wide basis for all utilities, public and private, will go a long way toward addressing the abuse cited in this section.

Respectfully submitted,

Summit Communications, Inc.

By


James A. Hirshfield, Jr.
President